

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Mary E. Francis,	:	
	:	Case No. 1:22-cv-743
Plaintiff,	:	
	:	Judge Susan J. Dlott
v.	:	
	:	Order Dismissing Case with Prejudice
Captain Damon Roberts, <i>et al.</i> ,	:	
	:	
Defendants.	:	

On May 11, 2023, the Court issued an Order Adopting the Order and Report and Recommendation. (Doc. 17.) The Court therein dismissed Plaintiff Mary E. Francis's *pro se* Complaint to the extent that she alleged that Defendants were deliberately indifferent to her serious medical needs arising from COVID-19. Additionally, the Court concluded that Plaintiff had failed to state a claim upon which relief could be granted that the named Defendants were deliberately indifferent to her serious medical needs arising from a gunshot wound. However, the Court granted Plaintiff twenty-eight days to file an amended complaint substituting as defendants the officers and/or prison officials who failed to secure her medical care for the gunshot wound. The Court notified Plaintiff that the Court would dismiss with prejudice this action in its entirety if she failed to timely file an amended complaint. The twenty-eight-day deadline for Plaintiff to file an amended complaint passed on June 8, 2023. Plaintiff has not filed an amended complaint.


On June 21, 2023, Magistrate Judge Chelsey M. Vascura issued a second Report and Recommendation recommending that the Court dismiss the action pursuant to Federal Rule of Civil Procedure 41(b). (Doc. 18.) "If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.

Unless the dismissal order states otherwise, a dismissal . . . operates as an adjudication on the merits.” Fed. R. Civ. P. 41(b). “Rule 41(b) recognizes the power of the district court to enter a sua sponte order of dismissal.” *Steward v. City of Jackson, Tenn.*, 8 F. App’x 294, 296 (6th Cir. 2001). Dismissal with prejudice is appropriate under this Rule because Plaintiff failed to timely file an amended complaint substituting proper defendants against whom she could plausibly state a claim for relief.

Accordingly, the Court **ADOPTS** the June 21, 2023 Report and Recommendation (Doc. 18) and **DISMISSES WITH PREJUDICE** this case. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that for the foregoing reasons an appeal of this Court’s Order would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997), *overruled on other grounds*, *Jones v. Bock*, 549 U.S. 199, 203 (2007).

**IT IS SO ORDERED.**

BY THE COURT:

  
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Susan J. Dlott  
United States District Judge